

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

STEPHEN ALAN BREWER,

Petitioner,

v.

WARDEN, FCI MENDOTA,

Respondent.

Case No. 1:24-cv-01258-HBK (HC)

ORDER CONSTRUING PETITION AS
MOTION TO AMEND PETITION IN CASE
NO. 1:24-cv-00918-EPG

ORDER DIRECTING CLERK OF COURT TO
RE-FILE INSTANT PETITION AS MOTION
TO AMEND IN CASE NO. 1:24-cv-00918-
EPG

ORDER DIRECTING CLERK OF COURT TO
CLOSE THIS CASE

Petitioner Stephen Alan Brewer, a federal prisoner, is proceeding pro se on a petition for writ of habeas corpus under 28 U.S.C. § 2241. (Doc. No. 1, “Petition”). The Court takes judicial notice of its own files which reveal that Petitioner has a previously filed federal petition in this Court challenging the same conviction at case number 1:24-cv-00918-EPG. Thus, the Court construes the filing as a motion to amend the petition filed in Petitioner’s earlier case and orders this matter closed.

In *Woods v. Carey*, the Ninth Circuit held that, under certain circumstances, if a pro se petitioner files a habeas petition during the pendency of a previous petition, the district court should construe the second petition as a motion to amend the previous petition. 525 F.3d 886, 889-90 (9th Cir. 2008). Hence, *Woods* appears to require a district court to construe a “second or

1 successive" petition filed while an earlier petition is still pending in the district court as a motion
2 to amend the earlier petition.

3 Because Petitioner has a pending federal habeas petition in case number 1:22-cv-00918-
4 EPG, which challenges the same conviction as in this case, the Court must construe this Petition
5 as a motion to amend the earlier-filed petition. *See id.* at 889-90.

6 Accordingly, it is **ORDERED**:

7 1. The Court construes the Petition (Doc. No. 1) as a motion to amend the Petition in
8 case number 1:24-cv-00918-EPG.
9 2. The Clerk of Court is DIRECTED to docket the Petition in this case as a motion to
10 amend in case number 1:22-cv-00918-EPG.
11 3. The Clerk of Court is directed to close this case.

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13 Dated: October 29, 2024


14 HELENA M. BARCH-KUCHTA
15 UNITED STATES MAGISTRATE JUDGE

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